

THE INFLUENCE OF AMERICAN OIL INVEST-
MENTS ON INTERNATIONAL RELATIONS
WITH MEXICO, 1917-1927

by

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PREFACE

In the past ten years there has been a vast amount written concerning the pros and cons of the Mexican oil controversy. This has evolved from the encouragement to American capitalists during the Diaz regime and the reaction against this policy expressed in the Constitution of 1917.

Although I recognize the fact that much has been written, still, no work, in so far as I know, has been devoted entirely to a continuous story of the effect of American oil investments on the diplomatic relations between Mexico and the United States. Since it is evident that the attitude of the countries toward each other has been largely influenced by the status of the oil situation, and furthermore, due to the fact of the scarcity of material of this type, I feel justified in my research on this subject.

Consequently I have attempted to trace the effect of American oil investments on international relations with Mexico from the adoption of the Constitution of 1917 to the present time. It was not done for the purpose of criticism or apology; or with any conscious prejudice, but rather with an unbiased interest in the subject.

In the preparation of this thesis I have used source material in so far as it was available, chiefly in the library of the Kansas State Agricultural College, or private collections of my own. The source material used was American government documents; pamphlets, speeches, and typed material furnished me by various governmental and private agencies in the United States and Mexico; newspapers; and magazine articles by persons having first hand information.

I wish to express my appreciation to the Librarians of the Kansas State Agricultural College for their kind and willing assistance at all times during the several months of my research work. Much credit, for very valuable material, is due the following: Foreign Policy Association, Senator Arthur Capper, Mexican Embassy at Washington, D. C., Secretaria de Industria, Comercio y Trabajo of Mexico City, Pan-American Union, and the National City Bank, New York City. I extend my sincerest gratitude to Dr. F. A. Shannon for his helpful criticism and advice in the development of this study.

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I Background to 1917

For the past thirty years oil in Mexico has influenced greatly the diplomatic relations of the United States and Mexico. Fearing that the government was losing the wealth derived from its natural resources, mainly oil, Mexico declared the national ownership of the subsoil, in the Constitution of 1917. With this declaration began a controversy which has continued down to the present time.

In order to understand the disputation over the question of oil investments in the country to the south of us, one must investigate the history of the Mexican law pertaining to the ownership of the subsoil.

Senor Felipe Carrillo, chief of the legal division of the Department of Industry, Commerce, and Labor, and a very able lawyer, states that the Mexican laws concerning oil and mining originated at the time that Mexico was acquired by Spain. Under the Spanish laws all rights to the soil and subsoil were claimed by the nation. This body of laws was enacted by Alfonso the Wise King of Lion and Castile,

in the thirteenth century.¹

The Spanish rulers have, from time to time since the fourteenth century, made declarations of the national ownership of all the subsoil mineral deposits.² The most significant early law of the modern era was the edict of Philip II of Spain, dated January 10, 1559. It provided that on account of their great benefit and the utility there are taken into the royal patrimony "ores of gold, silver, quicksilver and other metals,"³ but due indemnity was allowed to the person affected by the decree.

By the ordinances of 1783 it was decreed that all products of the subsoil belonged to the crown, not only metals and fuels but betunis (juice of the earth), including petroleum, which was discovered later.⁴ Regressive from this law was an act of 1789, in which coal was recognized as of commercial value, and which declared the owner of the property to be the owner of this hydrocarbon. A further act, passed in 1792, stated that coal of "free availability" belonged to the owner, but that the crown could incorporate

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1. Alva W. Taylor, "The Mexican Oil Controversy," Christian Science Monitor, December 17, 1926, editorial.
 2. Manuel C. Teiler, "Mexico Within Her Sovereign Rights," Current History, Vol. XXIV (May 1926), p. 339.
 3. "Investigation of Mexican Affairs," Senate Documents, 66 Cong., 2 Sess., Vol. X, No. 225, p. 3274.
 4. Taylor, loc. cit.

mines necessary for royal use with just compensation.⁵

No express provision concerning petroleum was made in these last two statutes, for the simple reason that the commercial value of that product was not then known. However, the principle upon which coal was exempted from royal patrimony was that it was neither metal nor semimetal; "and this principle is, of course, controlling in the analogous case of petroleum."⁶

The Republic of Mexico obtained its independence from Spain, in 1821, and thereafter a treaty was entered into with Spain whereby the existing royal patrimony was transferred to the Republic of Mexico. The several ordinances were taken over by Mexico until the nation could enact laws of its own.⁷

Following the turbulent empire of Iturbide and the chaos of dictatorship under Santa Anna and others, a revolution placed the Liberals in control. Then, in 1857, President Ignacio Comonfort summoned a constituent assembly which drafted the famous Constitution of 1857. This organic law remained nominally in effect until 1917.⁸ According

5. "Investigation of Mexican Affairs," loc. cit., p. 3275.

6. Taylor, loc. cit.

7. "Investigation of Mexican Affairs," loc. cit., p. 3275.

8. Herman O. James and Percy A. Martin, The Republics of Latin America (New York, c. 1923), pp. 337-340.

to the new constitution salts, fresh and salt water, petroleum, and gaseous springs were the exclusive property of the owner.⁹

It further provided that, "Private property shall not be taken without the consent of the owner, except for reasons of public utility, indemnification having been made. The law shall determine the authority to make the expropriation and the conditions on which it shall be carried out." All civil corporations and institutions, except religious corporations and institutions, may acquire and administer real property, buildings, and loans subject to requisites and limitations established by federal law.¹⁰

At the time of the promulgation of this constitution the commercial value of petroleum was not realized. As a result there were no petroleum interests to influence such favorable action.

The Constitution of 1857 left the regulation of the mining industry to the states, but an amendment, in 1883, transferred that power to the federal congress. In 1884 President Porfirio Diaz issued a decree containing a federal

9. "Investigation of Mexican Affairs," loc. cit., p. 3271.

10. American Academy of Political and Social Science, Annals, Vol. LXXI (May, 1917), pp. 15-16.

mining code which declared coal and petroleum to be the exclusive property of the owner of the surface.¹¹ According to a congressional investigation of Mexican affairs, this law left no room for argument as to the absolute ownership of petroleum by the owner of the surface. It was declared in the reports that the development of petroleum did not begin until sixteen years after the decree of 1884, and, therefore, interested parties had no influence upon its declaration.¹² However Manuel Telloz declares that the law of 1884 was the result of the influence of foreign exploiters.¹³

In 1892 an act of congress made the grant of publicly owned minerals perpetual, dependent only on the payment of taxes. The purpose of the tax, as under Spanish law, was to insure the operations of the mines.¹⁴ Jose Colomo declares that this act only provided for the right of exploitations and thereby implied a return of ownership to the nation.¹⁵

11. J. P. Chamberlain, "The Mexican Oil situation," The Nation, Vol. CVIII (January 11, 1919), p. 67.

12. "Investigation of Mexican Affairs," loc. cit., p. 3271.

13. Telloz, loc. cit., p. 330.

14. Chamberlain, loc. cit., p. 67.

15. Jose Colomo, "Mexican Petroleum Law its Basis and its Aims," Estados Unidos Mexicanos Bulletin (Mexico City., 1927), p. v.

The mining code passed in 1909 states that "minerals in general are property of the nation, but that certain products, including mineral combustibles and bituminous substances, are 'the exclusive property of the owner of the soil.'" 16

The seeds of the oil controversy were sown during the last twenty years of the nineteenth century. In 1876, Porfirio Diaz launched a rebellion against Lerdo de Tejada, who was President. As a result Diaz was declared President, March 2, 1877.

Diaz, a shrewd mestizo, ruled Mexico from 1877 to 1900 and from 1904 to 1911. With one firm hand he suppressed insurrection in Mexico, while with the other he welcomed foreign capital.¹⁷ In order to get the latter to come into Mexico, regardless of civil strife, he offered extremely liberal inducements and concessions, and these had to be strengthened by burdensome guarantees. The United States, however, delayed recognition until 1878. When the governments realized that Diaz was in earnest, they encouraged their citizens to invest in Mexico.

16. Chamberlain, loc. cit., p. 67.

17. Parker Thomas Moon, Imperialism and World Politics (New York, 1926), p. 436.

Diaz felt that he was best fitted, of all aspirants, to govern Mexico. To do this effectively he must have full power; consequently he built up a despotic government. "He laid down a program embracing peace at home and credit abroad, and he put it through regardless of obstacles,"¹⁸ and of the future of the Mexican citizenry.

Although extensive investments had previously been made in Mexico, the oil had hardly been touched before 1901. At this time a prospector from the United States, Mr. Edward L. Doheny, began to drill wells, thus laying the foundations of his two great oil companies--Mexican Petroleum and the Pan American Petroleum and Transport. These companies soon made millions annually in dividends. The Standard Oil Company also invested heavily.

But such fabulous wealth was not to be left to the United States alone. A British Company, the Mexican Eagle, became an aggressive rival, between 1905 and 1913; by 1910 it controlled the Mexican oil put.¹⁹

These companies had secured, from the government, exemptions from taxes for a period of ten years and from import duties on pipe, pumps, and other machinery needed for

18. Graham H. Stuart, Latin America and the United States (New York, 1922), p. 105.

19. Moon, op. cit., p. 458.

the business. The purpose of the exemptions was to stimulate industrial enterprise.

Most of the money in Mexico went there during the thirty-four years of the Diaz regime. This period was marked by the far-seeing realizations that foreign capital must come to Mexico if the country was to be developed.²⁰

If the presidency of Diaz could be remembered with a more statement of the many material benefits which it accomplished for Mexico, Diaz would stand among the world's greatest statesmen. But the scientific government, which had been established, was almost wholly in the interest of the financiers, the large landowners, and the government officials, while it did nothing for the peon but exploit him.²¹

In 1910 Diaz, at the age of eighty years, stood for reelection, although he had declared in 1908 that he was serving his last term. As a result of a partisan election, Diaz was again chosen, and the long suppressed opposition could be restrained no longer.²² Because of this fact, there began the long civil war, or series of civil wars, which lasted for an entire decade. Several causes account

20. New York Times, July 6, 1910, Sec. IV, p. 1, c. 2-3.

21. Stuart, *op. cit.*, p. 106.

22. Ibid., p. 106.

for the trouble: (1) The people of Mexico were illiterate, poor, and exploited; (2) The small governing class was divided against itself. Some advocated centralization; others, state rights. Some believed in economic progress, aided by foreign capital, and were opposed to the demands of the radicals for democracy, land reform, or labor reform; others were eager to legislate against the church.²³

Nearly all of the charges preferred against the Diaz regime are connected directly or indirectly with his policy toward the United States or foreign capital, particularly from the United States.²⁴

Diaz, in his message to congress in April 1, 1911, promised certain reforms. But, the rising revolutionary tide, with the opposing candidates, Francisco Madero, at its head, could not be stemmed. Diaz resigned on May 5, left for Europe the next day, and a provisional government was set up, with Madero at its head.²⁵

Madero was elected president in October, with an overwhelming majority, and was inaugurated November 9, 1911.²⁶

23. Moon, op. cit., pp. 439-440.

24. J. Fred Lipsey, The United States and Mexico (New York, 1926), p. 329.

25. Stuart, op. cit., pp. 108-109.

26. James and Martin, op. cit., p. 345.

Carlos B. Zetina, the largest employer in Mexico, tells us that the elections of Madero and his successors were decided on the battle field. As a result there was no question as to who would come out on top in the election.²⁷

During Madero's term of office, the situation of the Americans in Mexico was so critical that it was necessary for the United States, in apprehension of emergencies, to keep extra troops constantly on the border. An American transport was sent to Mexico to bring home Americans, desiring to leave.

Madero was unable to keep in check the revolutionary movements. Ambassador Henry Lane Wilson considered the situation so hopeless that he called a conference of foreign ministers which decided to ask Madero to resign in order to avoid further blood shed. Madero, however, was determined to maintain his position.

On February 18, 1913, General Victoriano Huerta turned against the President and ordered his arrest, and, on February 20, a provisional government was established with General Huerta in control. When Madero and the Vice-President were being conducted to the penitentiary they were

27. "A Sleight-of-Hand Deal with Mexico," Current Opinion, Vol. LXXVI (February, 1924), p. 146.

both murdered. This incident resulted in immediate reaction against the provisional government. Ambassador Wilson urged recognition to prevent further confusion. President William Howard Taft, however, was unwilling to bring possible embarrassment upon his successor. Consequently the matter was turned over intact to the Wilson administration.²³

President Woodrow Wilson proposed to apply his democratic principles to the affairs of Pan America. This plan was a plain announcement of his determination not to recognize Huerta and his system of tyrannical force.

Previous to his speech of October 27, 1913, before the Southern Commercial Congress at Mobile, Alabama, he had declared himself the champion of democracy against military tyranny, but at this time he announced himself as its defender against official economic imperialism. Huerta struck back at Wilson by the persecution of Americans in Mexico and abuse of the American flag. Wilson retaliated by the occupation of Vera Cruz and interception of arms and ammunition intended for the dictator. This soon brought Huerta's abdication. Wilson announced that he did not consider it an act of war against the Mexican people or the beginning

23. Stuart, op. cit., pp. 109-111.

or formal intervention.²⁹

After Huerta's abdication there followed a period of rapid changes in the control of government. Opposed to those in control were the Constitutionalist with Venustiano Carranza and Francisco Villa as leaders.

There were three wings in the Constitutionalist party: conservatives, militarists, and extreme radicals. The conservatives were small in number and influence. Selfish motives governed the militarists largely. The radicals favored pronounced changes in the Constitution, with provisions favoring the working class and with generally socialistic tendencies. The majority of the delegates were men of no experience in government.³⁰

The Constitutionalist movement headed by Carranza, although ostensibly a political movement, soon assumed profound social significance.³¹ "The shibboleth of the Carranzista revolt was, 'The Constitution and Reform.'" The war cry of the campaign against Huerta was for restoration of constitutional government.³²

29. Elper, op. cit., pp. 333-337.

30. E. D. Trowbridge, Mexico Today and Tomorrow (New York, 1919), p. 203.

31. W. J. Schultz, "Investing in Mexico," Forum, Vol. LXXI (December, 1923), p. 2212.

32. Henry Bruere, "Mexico Progresses," New Republic, Vol. XII (October 6, 1917), p. 263.

After two years the revolutionary conditions continued to exist. The purpose of the revolution was to rid Mexico of men who ignored the constitution. With this ideal the United States instinctively and generously sympathized, but in the very hour of success the leaders turned against one another.

The United States could not stand idly by and see Mexico come to utter ruin, and they deemed it their duty as friends and neighbors to lend any aid that would bring about an effective settlement which would embody the real objects of the revolution--constitutional government and rights of the people.

President Wilson felt that something must be done immediately to set up a government in Mexico City, and he made this appeal, "I, therefore, publicly and very solemnly call upon the leaders of factions in Mexico to act, to act together, and to act promptly for the relief and redemption of their prostrate country.

"I feel it to be my duty to tell them that, if they cannot accommodate their differences and unite for this great purpose within a very short time, this Government will be constrained to decide what means should be employed by the United States in order to help Mexico save herself

and serve her people." 33 In 1918, Wilson again admonished the Mexican military chiefs to assemble in a conference for the purpose of settling their difficulties, and offered mediation. Like the Niagara Conference of 1914, this second effort to help the Mexicans settle their difficulties failed.

Before the end of 1915 the United States decided to recognize the Mexican government under Carranza.

In his annual address to congress, President Wilson referred to his Mexican record with pride, and expressed hope for Mexico's future: "We will aid and befriend Mexico, but we will not coerce her; and our course with regard to her ought to be sufficient proof of all America that we seek no political suzerainty or selfish control." 34

33. Edgar E. Robinson and Victor J. West, The Foreign Policy of Woodrow Wilson 1913-1917 (New York, 1917), pp. 268-270.

34. Rippey, op. cit., p. 340.

II General Conditions in Connection With the Adoption of the Constitution of 1917

Chaotic conditions existed in Mexico when Carranza gained control of the government. Of the several problems the most important was that of finance.¹ The government needed money and saw in the oil business, the development of which was almost entirely in the hands of foreigners, a chance to get some gold out of the oil. Certain taxes were imposed, some of which were in violation of contracts. The collections were forced and the companies paid under protest. The companies made urgent demands upon their governments, and attempted to discredit the Mexican government.²

During the summer of 1915, just when the United States was carrying on heated negotiations with Germany over the sinking of the Lusitania, Mexicans were still making frequent raids upon American citizens. In June President Wilson admonished the factions to get together.

Fortunately, just when intervention seemed a necessity, the representatives at Washington of several of the Latin American countries met with Secretary Lansing and conferred

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1. Bruere, "Mexico Progresses," New Republic, Vol. XII, p. 263.
 2. Trowbridge, "Mexico's Way Out," New York Times, May 21, 1922, p. 4, c. 5.

upon the subject. As a result all of the Mexican leaders were urged to talk things over. All agreed to this except Carranza. Nevertheless, in the closing sessions of the conference it was agreed that the Carranza organization constituted a de facto government in Mexico, and its recognition was urged. The United States granted recognition October 19, 1915.³

Villa swore vengeance upon the United States for its recognition of the Carranza government, and made raids across the border. The United States retaliated by sending an expedition into Mexico in pursuit of the bandits. Carranza, apparently fearing for Mexican sovereignty, instead of cooperating with the punitive expedition, seemed desirous of thwarting it. Finally Brigadier-General John J. Pershing was warned that if he moved his troops farther south, east, or west he would be attacked. This order brought Wilson's "watchful waiting" to an end, and he ordered 150,000 militia under arms, and despatched them to the border. The American Secretary of State, Robert Lansing, informed Mexico that the American troops were there to accomplish a duty forced upon the government by the impotence

3. Robinson and West, Foreign Policy of Woodrow Wilson, pp. 73-74. The countries participating in this conference were Brazil, Argentina, Chile, Bolivia, Guatemala, and Uruguay.

of Mexican authorities.

It was finally agreed to call a conference in an effort to settle the difficulties. The conference convened on September 6, at New London, Connecticut, and continued until November 24.

The Americans were insistent upon the protection of foreigners and their interests in Mexico, while the Mexicans desired the immediate withdrawal of the American troops from Mexican soil.

A protocol was finally drawn up and signed, providing for the withdrawal of Pershing's army within forty days, in case no new raids occurred in the meantime. However, the United States reserved the right of pursuing and capturing bandits who invaded American soil.⁴

It is interesting to note that the last detachment of American troops were withdrawn from Mexico on February 5, 1917, and on March 3, 1917, the new American ambassador, Henry P. Fletcher, presented his credentials at Mexico City.⁵

The confusion which existed in Mexico made the dictatorship of Carranza a necessity, but its continuance pro-

4. Stuart, Latin America and the United States, pp. 117-118.

5. Robinson and West, Op. cit., p. 142, note.

duced an embarrassing situation in both foreign and domestic relations. Carranza had the final say in all matters. The military leaders, knowing this, were constantly asking favors and privileges which it was difficult to refuse. A new constitution seemed to be the best solution for the situation.

By 1917 the return to a gold basis ⁶ and improved economic conditions justified the claim that the time had arrived to put into effect the program of the Constitutional-ist party.⁷

The new constitution was promulgated on February 5, 1917. "Of the entire 136 Articles, a little less than one-half were taken from the Constitution of 1857. A large share of the rest have been modified in their phraseology, without effecting substantial changes, and the remainder embody certain new principles to assure better social and economical conditions for the Mexican people."⁸

6. In 1905 the gold standard was put into effect in Mexico. The peso is equal to \$0.498 United States currency. During the revolutionary period, following the overthrow of Madero, metallic currency almost disappeared, and the country was flooded with paper money, James and Martin, The Republics of Latin America, p. 367.

7. Trowbridge, Mexico Today and Tomorrow, p. 202.

8. Constitution of the United States of Mexico, Signed January 31, 1917, and Promulgated February 5, 1917, Revised and Amended to April 1, 1926, Reprinted from the Mexican Review (Washington, 1926), furnished with manuscript corrections and continuations by the Mexican Ambassador at Washington, p. 1.

Some of the features which have given the Constitution notoriety are: the principle of eminent domain and its care; the determination to destroy the evils of authoritative control of the people by the church, either through education or religion. According to Priestley, the constitution is anti-clerical, anti-foreign, and anti-monopolistic, and it includes the theory of social reorganization.⁹

The part of the Constitution which has been the source of most extensive criticism by the United States, is Section I of Article XXVII, which deals with foreign investments: "Only Mexicans by birth or naturalization and Mexican companies have the right to acquire ownership in lands, waters and their appurtenances, or to obtain concessions to develop mines, waters or mineral fuels in the Republic of Mexico. The Nation may grant the same right to foreigners, provided they agree before the Department of Foreign Affairs to be considered Mexicans in respect to such property, and accordingly not to invoke the protection of their Governments in respect to the same, under penalty, in case of breach, of forfeiture to the Nation of property so acquired. Within a zone of 100 kilometers from the frontiers, and of 50 kilometers from the sea coast no foreigners shall under any con-

9. Herbert Ingram Priestley, The Mexican Nation (New York, 1923), p. 432.

ditions acquire direct ownership of the lands and waters."¹⁰

This article is a return to the old Spanish theory of ownership. It sets forth that all subsoil rights belong to the nation. The effect of this clause is that subsoil rights can only be exploited under national license.¹¹

Article XIV, however, declared: "No law shall be given retroactive effect to the injury of any person whatsoever. No person shall be deprived of life, liberty, property, possessions or rights...."¹² In the eyes of the foreigners these two provisions of the Constitution threw the whole question of foreign investments into a state of uncertainty. To increase the concern of the foreigners, the Supreme Court of Mexico rendered a decision, December 24, 1917, which gave "the Mexican Congress unlimited power to pass retroactive laws."¹³ The Mexican Supreme Court is primarily a political body, making decisions for the time being; hence their decisions are subject to reversal.¹⁴

Public opinion developed rapidly over the oil problem. It is said that the matters involved in the Mexican oil question are not wholly Mexican, nor are they questions solely

10. Constitution of the United States of Mexico, p. 7.

11. Trowbridge, loc. cit., p. 4, c. 6.

12. Constitution of the United States of Mexico, p. 7.

13. New York Times, September 8, 1921, p. 18, c. 4.

14. Ibid.

concerning oil. The issue, then, stands out clearly above municipal law and the law of nations, "as one of simple justice and fair dealing." 15

Nevertheless Stephen G. Porter, who at that time was Chairman of the House Committee on Foreign Affairs, stated that it was perfectly plain that the purpose of the adoption of Article XXVII was to place foreign owners of all kinds of property absolutely at the "mercy of the whim or caprice of the Mexican Government unless a foreigner expatriate himself." 16 If a foreigner should do this, no matter what kinds of confiscatory law were passed he could not appeal to his home government. Consequently few, if any, filed the agreement required by this article. 17

The oil companies have also shown their uneasiness. They demanded that there should be made, "A frank and unqualified recognition of all rights legitimately acquired under laws whose validity has never been assailed," 18 and that this be done previous to May 1, 1917, the date fixed for the Constitution to become effective.

The Mexican government denied the contentions of the

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15. Ira Jewell Williams, "The Mexican Oil Question," Nation, Vol. CVIII (April 19, 1919), p. 631.
 16. New York Times, September 1, 1919, p. 5, c. 2.
 17. Ibid.
 18. Williams, loc. cit., p. 631.

United States that the legislation was retroactive and confiscatory. The United States was asked to await developments and indicate any specific cases in which Mexican action violated justice.¹⁹ This suggestion was not looked upon with favor by the people of the United States.

Luis Cabrera, Mexican Minister of Finance, stated that the oil companies furnished arms and ammunition for the purpose of preventing the government from obtaining control there. Furthermore, he asserted that, by these means and because of the government's lack of patrol boats, the companies defrauded the government of large sums of money in taxes.²⁰

Apparently there were numerous forces which tended to influence the trend of action taken by both Americans and Mexicans in the oil controversy. Various accusations have been made as to the extent of German influence during the World War.

The Committee on Foreign Relations of the United States Senate carried on lengthy investigations of Mexican Affairs. According to the hearings, Carranza and most of his followers were pro-German. He, with certain of his fol-

19. "Our Dispute with Mexico," The Outlook, Vol. CXLIV (December 8, 1926), p. 437.

20. New York Times, October 19, 1917, p. 13, c. 2.

lowers, including Obregon, were interested in stirring up trouble in the Central American Republics. The purpose was to secure assistance of one or two other states, and then combine them with Mexico in their opposition to the United States of America. Carranza was working on this plan just before the recognition of the Carranza government by the United States.²¹

The most extreme length to which German diplomacy was carried was not learned until after the war. Alfred Zimmerman's instructions sent from Berlin to Von Eckhardt, German Minister to Mexico, by way of Johan von Bernstorff, fell into the hands of the United States government. The note stated that the German government intended to force an immediate peace by "ruthless submarine warfare," and at the same time maintain peace with the United States.²² In case this attempt should fail, "we propose an alliance on the following basis with Mexico: That we shall make war together and together make peace. We shall give general financial support, and it is understood that Mexico is to reconquer the lost territory of New Mexico, Texas, and Arizona. The details are left to you for settlement."²³ Furthermore

21. "Our Dispute with Mexico," loc. cit., p. 437.

22. Preston William Slosson, Twentieth Century Europe (New York, c. 1927), p. 341.

23. Congressional Record, 64 Cong., 2 Sess., p. 4868.

the note urged, in case of war with the United States, that Mexico communicate with Japan, and at the same time offer to mediate between Germany and Japan.²⁴

Clifton W. McArthur, of Oregon, in his address in the House of Representatives on The Mexican Problem, stated that it was quite obvious that Germany attempted to stir up trouble between Mexico and the United States. Germany succeeded in developing a flame of hatred toward the United States in the hearts of the Mexican people.²⁵

Seemingly there is little doubt that Mexico was working under the inspiration of the German legation when issuing the decrees in 1918, putting into effect the confiscation of petroleum, regardless of the constitution.²⁶

Notwithstanding the evidence of pro-German sentiment in Mexico, there also existed the fact that Mexico, on several occasions, objected to pro-German propaganda. A shipment of arms and ammunition to private parties suspected of being engaged in pro-German intrigue was ordered seized upon its arrival. At another time local authorities were informed of a proposed meeting of German agents, to be held at a theatre in the city of Guadalajara, for the purpose of ad-

24. Ibid.

25. Idem, 66 Cong., 2 Sess., p. 9030.

26. Idem, 66 Cong., 1 Sess., p. 1205.

vancing the cause of the Hohenzollerns against other nations of Europe. Local officers showed disapproval, and the meeting was changed into one for the benefit of the poor children of the city.²⁷ In a message of October, 1919, Carranza declared that, although there were people of the opinion that Mexico did not adhere strictly to neutrality, still the Mexican Republic observed perfect neutrality during the conflict. Furthermore, he maintained that it would be impossible to prove the slightest deviation from neutrality, if judging with the most exacting principles of international law, of the treaties in force, and of practices universally established.

He also stated that the rights of Mexico as a neutral were not respected. The United States warships remained in the Mexican territorial waters in a few cases, over twenty-four hours.²⁸ This act was a violation of international law.

Apparently neither Mexico nor the United States was without blame. Although certain evidence seems to prove

27. *Idem*, 65 Cong., 1 Sess., p. 1205.

28. Venustiano Carranza, "Message Delivered in the National Assembly on September 1, 1919, at its Regular Session," *Mexican Review* (Supplement), Vol. III, No. 7 (Mexico City, n. d., a pamphlet in the K. S. A. C. Library), p. 22.

that Mexico did not maintain effective neutrality, yet, as long as prejudice exists and not all diplomatic correspondence and state papers are made public, the truth cannot be ascertained.

III The Development of the Controversy Over the Mexican Constitution and Decrees

For nearly a year after the adoption of the Constitution nothing was done. But between February and August, 1918, Carranza issued a series of executive decrees, purporting to carry the Constitution into effect.¹

It is interesting to note that, according to the system followed in Mexico, neither congressional enactment of a bill nor its official promulgation means actual enforcement. After a bill is passed and announced, the government must issue "regulations" for the new law, which contain an announcement of its detailed requirements and methods of enforcement. Consequently the "regulations" rather than congressional action, govern the law.²

There were five decrees issued, which were of a confiscatory character. "The result was that the ambiguity that was recorded in the words of the Mexican Constitution of 1917 was thrown into strong light."³

The first of the decrees was issued February 19, 1918.

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1. Frederic R. Kellogg, "The Mexican Oil Situation," Mexico and the Caribbean, George H. Blakeslee, ed. (New York, 1920), p. 60.
 2. New York Times, December 29, 1925, p. 8, c. 1.
 3. Ibid., June 8, 1921, p. 3, c. 3.

It fixed a royalty of five per cent. on the output; a tax of 5 pesos on each hectare of land on all oil lands, and a steeply graduated tax on the rent paid under oil leases, running up to fifty per cent. of the royalty. It further required the owners or lessees, who desired to operate the land held by them, to file a statement within three months. All lands not registered at the expiration of that period would be open to claims. Only leases executed prior to May 1, 1917, were recognized.⁴

The possible significance of this decree was that the intention was to separate the ownership of the surface from that of the mineral deposits of the subsoil, in this way confiscating private property under the guise of taxation without just compensation.⁵

The oil companies of the United States and Great Britain protested through diplomatic channels. On July 13, 1918, a decree was issued by Carranza explaining how the denouncement of petroleum deposits could be made. Holders of oil lands were given until August to file the necessary papers to continue in the occupation of their own lands, or

4. Chamberlain, "Mexican Oil Situation," The Nation, Vol. CVIII, p. 68.

5. Stuart, Latin America and the United States, p. 123.

forfeit them to others by denouncement. Since most of the companies refused to comply, and were supported in this action by the American State Department and the British Foreign Office, Carranza had to suspend nationalization indefinitely.⁶

The decree of July 31 provided for the seizure of undeveloped oil lands by the Mexican government. This was passed upon the failure of the owners to make the necessary declarations or to submit to the fixed taxation. This seemed to be all that was necessary to arouse the already smoldering feelings of opposition. The threatened crisis, apparently, was averted by the modification of the decree.⁷

Obviously, up until August 17, 1918, the enforcement of decrees was forestalled. On this date Mr. Fletcher was informed that the Mexican government had determined that it would not accept the interference of any foreign power. Furthermore it would not consent to anything under the pretext of protection of foreign interests, which in any way impaired the exercise of Mexican sovereignty.⁸

6. Robert G. Cleland, ed., Mexican Year Book, 1920-1921 (Los Angeles, 1922), p. 302.

7. New York Times, August 18, 1918, p. 17, c. 4.

8. "Investigation of Mexican Affairs," Senate Documents, 66 Cong., 2 Sess., Vol. X, No. 285, p. 3356.

The Mexican authorities adopted the policy of requiring permits to be secured before oil wells could be drilled. Along with these permits the companies were required to conform to the petroleum law, whenever such a law was enacted by congress. The companies refused to submit to these provisions, and, when they felt that necessity demanded it, proceeded to drill without permits.⁹

During the summer of 1919 it was reported that Mexico had actually confiscated the property of the Scottish-Mexican Oil Company. Although it is a British company there are many American share holders. The lease was admittedly legal, but, because the company refused to give in to the demands of the Carranza government, the land held by the company was denounced by the attorney for the man from whom the lease had been procured.

The land had been proved to be oil bearing and was already extensively developed. The Mexican attorney organized a Mexican company to operate the land, and proceeded to drill a well. Although drilling permits were refused to American and other foreign companies, unless they admitted their property was owned by the nation, this company had no

9. New York Times, December 11, 1919, p. 3, c. 2.

difficulty in securing one. The British company continued to pay its rental to keep its record clear.¹⁰

The United States, no doubt, was intensely concerned by this action on the part of Mexico. Although it did not directly affect the United States, this procedure was a forecast of what was likely to happen to American owned or leased oil lands.

Until the first part of 1918 the oil companies had little to fear from the numerous revolutions and changing administrations. Protection could always be bought. ¹¹ All of the inland oil fields were safeguarded by a sort of bandit army under Manuel Pelaez. The oil companies paid Pelaez one hundred thousand dollars each month, besides his royalties. From that income he had to feed and supply a private army of five or six thousand people ¹² including the families of the soldiers. The "bandit of the oil region," as Pelaez was called, made possible astonishing expansion during the years from 1910 to 1921.¹³

The United States was apprehensive for several months

10. *Ibid.*, July 12, 1919, p. 15, c. 2.

11. Shultz, "Investing in Mexico," *The Forum*, Vol. LXX, p. 2212.

12. "Why the Mexican Oil Fields are Guarded Like Diamond Mines," *Current Opinion*, Vol. LXII (October, 1917), p. 279.

13. Shultz, "Investing in Mexico," *loc. cit.*, p. 2212.

during 1918 lest there should be a conflict between the Carranza forces and those of General Velaz. Such an event, it was feared, might result in the closing of the oil wells, which would be a great hindrance to the United States and other governments engaged in war with Germany.

Although Carranza had made several attempts to gain control of the Tampico oil fields, he was not successful,¹⁴ until in March, 1918. At this time Velaz and his troops were driven into the hills and the Carranza government gained full control of nearly all the Tampico oil districts.

The oil industry was safe under the rule of Velaz, but the amount exacted from the oil companies for protection was enormous. It was feared that a conflict between the two forces would result in destruction of oil property and consequently check the oil supply. Such, however, was not the case, but instead there was promise of reduction in expenses.¹⁵

Velaz gave to the New York Times a statement concerning his attitude toward the Constitution and the oil companies. In it he recognized the Constitution and declared

14. New York Times, February 5, 1918, p. 13, c. 1.

15. Ibid., March 4, 1918, p. 12, c. 3.

that the oil companies must respect Mexican laws. He stated that Mexico needed foreign capital, because of the lack of Mexican capital. However, foreigners could not be allowed more privileges than the inhabitants of Mexico.

As to his relation with the oil companies he said that they paid him for protection. But he denied the accusation that the companies furnished him with arms and ammunition. Instead, he explained: "I purchased my own through my own organization. The companies paid me for protection and nothing else. A number of the companies have banded together to fight the Mexican laws. Naturally they wish to strangle all competition and have everything themselves. But I consider the companies who agreed to the laws showed good sense." 16

It is evident that the oil companies did not stop with a mere refusal to obey the laws of Mexico. Instead, they organized and began a campaign to overthrow the Mexican government. The phases of this campaign were: subsidizing counter-revolution in the Mexican oil fields; the spreading of propaganda throughout the United States; and a formal demand upon the Peace Conference, then sitting in Paris, that Mexico be denied the privilege of joining the League of

16. Ibid., June 5, 1920, p. 6, c. 2.

Nations. 17

Out of the Mexican disturbances, the various decrees and regulations, and the apparent violation of the rights of American citizens has evolved a Mexican oil question which cannot be easily settled, except by compromise by both parties.

According to Frederic R. Kellogg the question is: "Shall any nation within whose borders American citizens have ventured their capital and their lives in the promotion of industrial enterprises be considered as having the right to take from these Americans the fruits of their enterprises when success has been attained, without any pretense of compensation or any shadow of title other than that which physical force may furnish?" 18

Alberto Pani, in an address to the Mexican Congress, contended that no nation should have the right to interfere in the affairs of a country, even when the property rights of citizens in a foreign country are in question. Another contention was, that, due to the alteration in the Constitution, the government can "legally take such properties with-

17. Scott Hearing and Joseph Freeman, Dollar Diplomacy (New York, 1926), p. 117.

18. Kellogg, loc.cit., p. 55.

in its borders as the demands of the government may indicate." 19

In the spring of 1920 the Carranza government was overthrown by a movement headed by Adolfo de la Huerta, Alvaro Obregon and Plutarco Elias Calles, who since that time have succeeded to the presidency of Mexico in the same order. 20 After a brief interregnum under Huerta, Obregon assumed the reigns of office December 11, 1920. 21

During the first few months of 1921 feeling was intensified in both the United States and Mexico; partly due to the new decrees and rumors of decrees, and partly because of the attitude of Obregon.

In February it was reported that Obregon had issued a ruling to the Department of Industry, Commerce, and Labor, forbidding the granting of any permits for the drilling of wells on land that had not been manifested in accordance with the decree of August 8, 1918. 22 This report strained the relations between this country and Mexico, however it was denied a couple of days later by El Universal of Mexico

19. New York Times, January 25, 1919, p. 15, c. 2.

20. Guy Stevens, "American Relations with Mexico," United States and Mexico Their Present Relations (New York, n. d.), p. 15, address at dinner of Foreign Policy Association, Columbus, Ohio, April 29, 1927 (a pamphlet in K. S. A. C. Library).

21. James and Martin, Republics of Latin America, p. 347.

22. New York Times, February 19, 1921, p. 11, c. 3.

city. This article explained that the new Secretary of Industry, "ordered all the denouncement proceedings suspended and canceled all permits to drill in the Federal Zones."

The oil division maintained that exploitation had not been made difficult, and that drilling permits were granted if the application proved that the applicant was the owner or the lessor of the land to be drilled.²³

In May the oil men were greatly alarmed by a decree of President Abrego which provided for a fine of twenty thousand pesos, besides punishment, for oil drilling without permission of the Secretary of Industry. Several companies had begun drilling while waiting for the issuance of the permit, while other companies drilled without the formality of asking the government's permission. It was felt that this decree applied to the fields newly discovered in Tabasco and Chiapas rather than in Tampico, where the drilling had been going on.

Due to the new oil fields in these states the government warned holders of land not to lease or sell to oil companies without consulting the government. The reason for this action was to prevent a recurrence of sales in the Tam-

23. Ibid., March 17, 1921, p. 13, c. 2.

pico field, where land was leased for a few pesos, while the value of oil taken ran into the millions. The federal government advised the owners against leasing their land unless properly compensated.²⁴

Meanwhile sentiments were given no time to cool. Another petroleum decree was issued, June 7, 1921, providing that companies must pay an average increase of 25 per cent. in export taxes on their products, beginning July 1.²⁵ This tax would net the Mexican Government more than 30,000,000 pesos or \$15,000,000 a year. It is understood that this money was to be used solely for payments on the Mexican foreign debt. The decree stated that other countries had increased their taxes on similar products, and it was no more than right that Mexico should do likewise.²⁶ It was believed that the decree was aimed at excessive production, the protection of the nation's oil reserves, and at compelling the exporters to pay toward the national expenses a proportionate amount of their profits.²⁷

The National Association of Petroleum Producers in Mexico, in a brief to the State Department of the United States,

24. *Ibid.*, May 13, 1921, p. 4, c. 3.

25. "Mexico's Attitude on Property Rights," Current History, Vol. XIV (July, 1921), p. 713.

26. New York Times, June 9, 1921, p. 1, c. 2.

27. "Mexico's Attitude on Property Rights," loc. cit., p. 713.

based on their objections to Obregon's decree upon two grounds: first, that it was confiscatory; and second, that it was unconstitutional. They said that the tax was so exorbitant that to accede to it would be ruinous.²⁸

During this period of dissension, American war vessels were stationed at Tampico. The Mexican government officials felt that the presence of war ships might become embarrassing. They fear that some one, unwisely counselled or acting with misdirected patriotism, might commit an overt act which would cause the landing of marines. Apparently, realizing the plausibility of Mexico's objections, the vessels were withdrawn. Great relief was manifested when the United States authorities ordered the withdrawal of the war vessels.

Because of the objections that prevailed against the decree of June 7, 1921, a compromise agreement was made in February, 1922. According to this agreement the oil companies were to pay forty per cent of the tax originally imposed. The oil companies could pay their taxes to the Treasury in gold or in Mexican national bonds, which would be received without prejudice.²⁹

The Mexican Supreme Court also rendered its decision

28. New York Times, June 26, 1921, p. 16, c. 2.

29. Ibid., February 20, 1922, p. 24, c. 2.

in the Texas Company Amparo Case, in 1921,³⁰ but, according to Mexican law, there must be five like decisions on the same principle before a decision is accepted as final.³¹

The facts of the case were that, under the Carranza decrees, a person filed claim for a denouncement title upon the petroleum property of the Texas Company, acquired by a lease prior to May 1, 1917. The Supreme Court held that since the lease was made to the Texas Company prior to May 1, 1917, this transformed inchoate rights into vested rights. It further declared that Article XXVII, which provided that petroleum deposits belong to the nation, could not be applied to such properties, because action of this kind would be retroactive and confiscatory of vested rights. By this decision a distinction was made in property rights. One class consisted of properties acquired before May 1, 1917, and dedicated to oil production by a positive act before that date. The other class consisted of properties not dedicated by a positive act.³²

Justice Adolfo Arias, emphatically championed the Texas

30. Ibid., September 28, 1921, p. 27, c. 3.

31. Orly Stevens, "Some Outstanding Problems of American Foreign Relations," United States and Mexico their Present Relations, p. 16, an address before the American Academy of Political and Social Science, at Philadelphia April 23, 1927.

32. Ibid., pp. 17-19.

Company's contention. He stated that the denouncement in question was in direct violation of Article XIV of the Mexican constitution. This article provides that no law shall be given retroactive effect as to land acquired prior to the adoption of the new Constitution.³³ This decision was followed by four others which constituted what is called in Mexico, jurisprudence.³⁴ It seemed that in the last four cases decided, the opinions endeavored to cover a wider scope than the previous one.³⁵

One writer states that, by these decisions, the oil companies acquired a preferential position, while the owner of the farm or ranch on which oil may be discovered must come under regulations adopted by Article XXVII. "This, of course, is just the reverse of what the framers of the Constitution wished to accomplish."³⁶

Considerable comment has been made upon the importance of the Amparo decisions. Chester T. Crowell of the National said that, under Mexican law, Amparo proceedings are similar to American injunction or mandamus proceedings.³⁷ By

33. New York Times, September 1, 1921, p. 17, c. 8.

34. Stevens, "Some Outstanding Problems of American Foreign Relations," loc. cit., p. 17.

35. New York Times, August 8, 1922, p. 29, c. 2.

36. Trowbridge, "Mexico's Way Out," New York Times, May 21, 1922, p. 4, c. 6.

37. New York Times, September 28, 1921, p. 27, c. 3.

a later law these decisions were ignored, but the action was excused by the Mexican government in a statement that decisions of the Supreme Court are not binding upon legislative and executive branches of the government.³⁸

After careful examination of the decisions, the American State Department decided that they did not deal with the whole subject of America's complaint concerning Article XXVII. It was felt that it did not furnish a complete non-retroactivity of that article. Consequently it did not furnish a basis for the beginning of negotiations with the Obregon government.³⁹

After discussing the various things which influenced so profoundly the trend of diplomatic relations between United States and Mexico, since 1917, it is important to note the reaction of public opinion in the two countries.

There were numerous expressions of opinions during 1918. President Wilson, in an address to Mexican editors, made clear the policy he desired to follow. He assured the editors that some Americans were ashamed of the more ancient relations with Mexico. He stated that he recognized and

38. Stevens, "Some Outstanding Problems of American Foreign Relations," *loc. cit.*, p. 17.

39. New York Times, October 26, 1921, p. 27, c. 2.

understood why Mexico was opposed to the Monroe Doctrine. In the first place, we did not ask whether Mexico wished our protection, and, in the second place, the United States assured Mexico against aggression from Europe but not from the United States.

He next urged, as a proposal, an agreement, that "The whole family of nations will have to guarantee to each nation that no nation shall violate its political independence or its territorial integrity." This he considered to be "the only conceivable basis of future peace of the world.... As long as there is suspicion there is going to be misunderstanding, and as long as there is misunderstanding there is going to be trouble. If you can get a situation of trust, then you have got a situation of permanent peace." The President placed the responsibility with every nation, to keep within the "bounds of honor and fair dealing and justice" in dealing with Mexico.⁴⁰

The Mexican government permitted to be printed, the American government's protest against the oil decree and it was said to be inconsistent with the President's message.⁴¹

40. "Attitude of the United States Toward Mexico," Senate Documents, 65 Cong., 2 Sess., Vol. XI, No. 264, p. 5.

41. New York Times, June 30, 1918, p. 8, c. 6.

Later in the same year President Wilson asserted that each attempt of the Carranza government to fix decrees to satisfy the United States and the producers was merely a clever wording to veil the confiscatory provision. Furthermore, he warned Carranza that, if the confiscatory policy was carried out, the necessity might arise to impel the United States to protect the property of its citizens in Mexico, divested or injuriously affected the decrees.⁴²

In a note sent through Ambassador Fletcher, the United States informed Mexico that its law of *impuestos* (taxes) was considered confiscatory in nature and a thing which the American government could not permit. The United States based its position upon the following principle of international law: "Exploitation of property by simple supreme sovereignty without due process of law, empty and equitably administered, always has been considered as a denial of justice." Mexico was warned again of the possible necessity for the United States to protect private property of its citizens.⁴³

Mr. Frederick H. Gillett, in an address before the session Pan-American Conference, stated that the Mexican problem

42. *Ibid.*, December 10, 1918, p. 17, c. 2.

43. *Ibid.*, May 28, 1918, p. 1, c. 3.

was, no doubt, uppermost in the minds of all. He mentioned the fact that security of property rights was of great importance, but to have to pay for it was not a procedure recognized by civilized nations. Furthermore, he asserted, that, for a country to refuse protection to its own citizens or to advise them to flee, was not dignified. At that time he considered the Mexican situation to be the greatest problem of the United States foreign policy, and, therefore, it should be dealt with by the conference in an effort to bring about satisfactory relations.

He recognized the fact that the United States was, of all nations, the most greatly interested, because of contact and investment, but he felt that the business interests of all the countries wished to establish conditions which would restore to Mexico the prosperity she had lost, and thereby give security to foreign commerce. "Such a consummation would be an advantage to all but its great blessing would go to Mexico." 44

Dr. Samuel Guy Inman, in a testimony before the Senate Foreign Relations Committee, stressed the importance of our relations with Mexico, because of its influence on all Latin

44. Ibid., June 3, 1919, p. 15, c. 6.

America. He urged that the United States keep in mind Pan-America in all of its dealings with Mexico. He also restated an assertion that the writers of American headlines, in newspapers and magazines, placed one of the greatest obstacles in the way of friendly relations with Mexico, by playing up the contentious side of the question.⁴⁵

During the last year of President Wilson's administration, the American people demanded a more drastic Mexican policy. One by one Wilson's supporters began falling away from him. At this moment William O. Jenkins, consular agent of the United States at Pueblo, was seized and held for ransom. Although the situation looked very serious for a time, Wilson finally realized what was going on and called a halt. A Mexican paid the ransom, Jenkins was liberated and the war cloud floated past.⁴⁶

W. F. Buckley, an American lawyer who had resided in Mexico a long time, attacked the methods of the oil men. He maintained that the oil companies had pursued a weak, vacillating policy. Instead of fighting they had accepted the alternative--bribery. They had adopted the contemptible policy of having one or more Carranzistas on their pay rools, hence they had not only contributed to their present plight,

45. "Investigation of Mexican Affairs," *loc. cit.*, p. 6.

46. Rippey, The United States and Mexico, pp. 356-357.

but they had also failed to seize their leadership in the fight for American rights in Mexico. Failing in this they did incalculable harm to the American of small means, to the American people, and to American prestige.⁴⁷

Mr. Joseph F. Guffey, president of the Atlantic Gulf Oil Corporation, said that the chief offenders in respect to propaganda were the associations formed for the protection of American rights in Mexico. He also asserted that the Mexican government was not attempting to confiscate oil properties developed and operated by American companies.⁴⁸

Mr. Frederic R. Kellogg summed up the complaints of the oil interests somewhat as follows: The Mexican government permitted the filing of claims against the oil properties by persons claiming to be entitled to acquire them under the Carranza decrees; Carranza's favorites were given concessions to drill upon lands within the titles held by petroleum companies; no company was allowed to drill on its own land without a drilling permit, and to gain a permit one must agree to abide by the terms of any petroleum law enacted in the future; armed forces were sent into the oil regions by Carranza, and committed murders and assaults upon

47. *New York Times*, December 11, 1919, p. 3, c. 4.

48. *Stuart*, op. cit., p. 126.

employees and, finally, a campaign of vilification was carried on against the companies, in Mexico and the United States. The oil companies were accused of being tax-dodgers, but this indictment merely encouraged them to rebel against the Carranza administration.⁴⁹

In an address before the American Petroleum Institute, Kellogg stated his belief that the better class in Mexico was realizing now that Mexico had taken a false step; that if the course of confiscation was continued she was in danger of placing Mexico "outside the pale of civilized intercourse." At this time he expressed hopes of a speedy solution of the problem under the President elect, Obregon.⁵⁰

After Obregon became president there apparently was just as much dissatisfaction as before. The oil operators said that Obregon had acted unconstitutionally when he issued the decree increasing the oil tax twenty-five per cent. The basis for this assertion was that, according to the Mexican laws, such a decree could not be issued except when special powers had been conferred upon the president as a result of the "suspension of guarantees," analogous to martial law in

49. *Ibid.*, p. 124.

50. Frederic R. Kellogg, "The World Petroleum Problem," Mexico (New York, 1921, a pamphlet in the K. S. A. C. Library), p. 29.

the United States. Nothing of this kind had happened. 51

In Mexico the only comment to be found either from the government or prominent Mexicans was in the nature of criticism of the American point of view. There seemed to be no statements which upheld the attitude of the American government.

A Mexican lawyer of prominence stated that, since the constitution established the direct dominion of the nation over the subsoil, all laws made must conform to the same principle. It was upon this doctrine that he justified the law of improprietes, "whose confiscatory character disappears when it is considered that the state only collects part rent, although given the right to collect all, through direct dominion."

He explained that nationalization in Mexico favored rather than harmed American citizens, especially those who had put capital into oil; harming only a few of those who had gone into "exploration and exploitation in behalf of shareholders assembled by companies for the sale of shares and not for exploration of the subsoil." 52

51. New York Times, June 21, 1921, p. 27, c. 4.

52. Ibid., May 29, 1918, p. 6, c. 1.

Ambassador Ignacio Bonillas attempted to justify conditions in Mexico in 1919 by comparing Mexico with the United States after the Civil War. He said that Mexico was in the aftermath of a civil war and the conditions in a few areas were such as followed similar struggles in other lands. "In your own South it was many years after Appomattox before conditions were restored to normal, and your Central government was occupied a long time in the work of pacification in a few of the remoter districts.... There are parts of Mexico in which conditions today are much like they were in your own West not so many years ago. Your army was kept busy for two generations by the Indians and bandits of the West." 53

The view point of Bonillas seems quite reasonable. From American experience we know that the period of reconstruction which follows a war is most tedious. When it is realized that Mexico has gone through a long period of stifled public spirit under the dictators, and also a series of civil wars one is prone to be more lenient in his criticism.

A little later General Salvador Alvarado expressed confidence in the government. He uttered the opinion that Mexico was through with revolution and had begun a program of

53. Ibid., July 27, 1919, p. 3, c. 4.

political, economic, and social development which would make nations take notice. He recognized the necessity for reorganization of the banking system, and stated that a merchant marine was to be created and industry stimulated so as to care for the unemployed. He declared that Mexico was a sincere friend of the United States. "We adore your strength, your vigor, your enterprise, your system, your wonderful discipline of mind and body, individually and socially, and we are eager to assimilate your methods." 54

Obregon said that foreign capital would be welcome in Mexico and given every justice. But it would not be given excessive privileges at the expense of the people's rights. He declared that the idea of confiscation was the result of propaganda on the part of those who resent the Mexican policy of nationalization because it prevents further exploitation.

According to his statement Mexico was of the opinion that investors gave the impression that the Mexicans should submit their taxation plans to them for approval. This naturally resulted in bitterness. Every federal tax was applied on natives and foreigners alike, consequently to call

54. Ibid., August 15, 1920, Sec. VIII, p. 20, c. 2.

the added tax "confiscatory" was absurd.⁵⁵

Apparently Mexico desired a friendly understanding with the United States. She seemed willing to do her part but she was not willing to grant to the United States more privileges than her own citizens. It was assumed that what taxes the native paid should also be satisfactory to the United States.

55. "The Mexican Oil Controversy," Current History, Vol. XIV (August, 1921), p. 395.

IV Recognition

Although Wilson was ill during the last eighteen months of his administration he refused to countenance a plan to withdraw recognition. Finally, the Carranza government was overthrown by Obregon, in May, 1920.¹ The violent change in administrations gave the United States and other powers an opportunity to withdraw recognition.² Wilson finally consented to demand a formal agreement as a condition of recognition.³

The reasons for this attitude, as expressed by the State Department, were: (1) The Obregon government was founded upon violence; (2) Mexico was too unsettled to offer the necessary guarantees of security; (3) Guarantees must be given that Article XXVII should not be retroactive in its application.⁴

Just before the national election of November, 1920, Roberto Fesqueira, confidential agent of the Mexican government at Washington, transmitted a note to Bainbridge Colby,

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1. J. Fred Rippy, "Mexico's Laws Against Foreign Land Ownership," *Current History*, Vol. XXIV (June, 1926), p. 331.
 2. W. J. Shultz, "Mexico's Successful Fight for Recognition," *Current History*, Vol. XIX (December, 1925), p. 395.
 3. Rippy, *loc. cit.*, p. 395.
 4. Shultz, "Mexico's Successful Fight for Recognition," *loc. cit.*, p. 395.

Wilson's Secretary of State. In it the position of the Oregon administration was stated. Mexico would respect all rightful claims which were proved as such, and submit herself to the recognized principles of International Law. Furthermore, the government favored permanent machinery for arbitration. Mr. Colby replied by suggesting, on November 26, 1920, that commissioners be appointed immediately to draw up a treaty.⁵

In the Harding administration the policy of Charles Evans Hughes was not far different from that of his predecessor. Mr. Hughes proposed a treaty of amity and commerce with Mexico, "in which Mexico will agree to safeguard the rights of property which attached before the Constitution of 1917 was promulgated."⁶ He could see no reason for objection to the treaty, if a confiscatory policy was not contemplated. Although recognition was a subordinate question a treaty in the proper form would accomplish the recognition of Mexico.⁷

The Association of Producers of Petroleum in Mexico agreed with the American policy toward Mexico. The senti-

5. Hippy, *loc. cit.*, p. 331.

6. "Mexico's Attitude on Property Rights," *Current History*, Vol. XIV, p. 711.

7. New York Times, June 8, 1921, p. 3, c. 2.

ment was that, before any definite settlement of the Mexican problem was accomplished, there should be a written agreement. A journalistic opinion was that we have the legal right, "to refuse to recognize any government in Mexico until it has given assurance in writing that the lives and property rights of American citizens in Mexico will be protected."⁸ Furthermore, the writer asserted that, as long as Article XXVII held out a threat of confiscation to American property, and so long as the Mexican federal zone law was in effect, the oil interests would oppose recognition.⁹

A treaty of amity and commerce which had previously been drawn up was presented to General Obregon, on May 27, 1921. The acceptance of the treaty was made a condition of recognition.¹⁰ If Mexico refused to make a treaty with the United States, either because the Constitution stood in the way, or for any other reason, a very serious situation would be created in the relations of the two countries.¹¹

In a message to Congress, in 1921, President Abregon voiced his opposition to the treaty as proposed. He said that there was no necessity for a treaty, and furthermore

8. Ibid., February 6, 1921, p. 20, c. 2.

9. Ibid., March 17, 1921, p. 7, c. 2.

10. Rippy, loc. cit., p. 395.

11. New York Times, June 8, 1921, p. 8, c. 3.

the treaty was contrary to Mexican constitutional precepts, because it created special privileges for Americans. The United States, he said, was not justified in demanding the signing of a treaty in return for recognition. Mexico desired recognition on the basis of "its legal and governmental ability to fulfil its international obligations."¹²

The American policy was criticised in the Argentine Republic as well as in the countries concerned. In Buenos Aires, la Nacion expressed the opinion that the policy of the United States was incompatible with the sovereign rights of Mexico. The paper approved the attitude of Oregon, on the ground that international law does not justify the assumption that Mexico sign a treaty in order to secure recognition.¹³

Frederick C. Kellaway, head of the Overseas Trade Department, in answer to a question in the British House of Commons as to recognition of Mexico, stated that Great Britain, for some time, had been prepared to recognize the Mexican government, when assured of the stability of Mexico. He added that the British policy had been directed by British interests.¹⁴

12. Ibid., September 2, 1921, p. 3, c. 4.

13. Ibid., June 12, 1921, p. 16, c. 3.

14. Ibid., March 2, 1921, p. 14, c. 2.

Rumors that oil interests sought to prevent recognition aroused public opinion in the United States to such an extent that a representative in Congress requested the House to have the Committee on Foreign Affairs investigate the charges.

At this time, there were those who felt that Mexico was deserving of recognition because of its stable government. The accusation was made that the National Association for the Petroleum Rights in Mexico was carrying on active propaganda in the United States. Likewise, a similar campaign was carried on in Mexico by the Association of American Owners of Land in Mexico. It is asserted that much of the unsatisfactory relations between the two countries could be traced to the unofficial intermeddling of individuals and corporations interested in Mexico. ¹⁵

Recognition still seemed as far off as ever in 1922. There was, however, a possibility, if an agreement could be reached as to the Mexican debt. For several years Mexico had been unable to pay the interest. Most of the Mexican bond issues which had been sold in Europe had been acquired by the governments, and turned over to the international bankers, as collateral for loans arranged by these finan-

15. Ibid., January 27, 1922, p. 12, c. 1.

ciers. The bankers had acquired a large part of these at an extremely low figure, and expected to make a large profit by forcing the Obregon government to accept them at par. This caused difficulty.¹⁶

At the time of negotiations between Secretary Adolfo de la Huerta and the bankers, it was thought this question was all that stood in the way of recognition. A general plan for funding the debt of Mexico and the national railway obligations was drawn up in Paris by the Bankers' Committee, headed by Thomas W. Lamont. The committee adjourned April 24, 1922, to meet Huerta in New York.¹⁷

It only took two weeks to complete this agreement. The plan of adjustment dealt with the external Mexican government debt, the national railways debt, and certain internal government debts, largely held outside of Mexico.¹⁸ The agreements involved nearly \$700,000,000. After twelve brief sessions, the International Committee of Bankers and Adolfo de la Huerta reached an agreement, June 16, 1922, which settled a question of eight years standing.¹⁹

It was agreed that payments on the current interest of

16. Henry Woodhouse, "The New Understanding with Mexico," Current History, Vol. XVI (September, 1922), p. 1016.

17. "The Latin American Nations," Current History, Vol. XVI (June, 1922), p. 541.

18. "Mexico Qualifying for Recognition," Current History (August, 1922), p. 911.

19. Woodhouse, loc. cit., p. 1017.

the Mexican bonds should begin January 2, 1923, either in cash or scrip. A special fund for the payment would be increased each year until January 1, 1928, when full service would be resumed. The oil export taxes and a surcharge on railway receipts would be paid into their fund.²⁰

When the settlement of Mexico's foreign debt did not bring recognition, further negotiations were begun. It was finally agreed by the United States and Mexico to establish two claims commissions. The Special Claims Commission was for the purpose of settling and adjusting amicably all claims arising from the losses or damages suffered by American citizens through revolutionary acts during the period from November 20, 1910, to May 31, 1920, inclusive. The plenipotentiaries for this commission were: President of the United States, George F. Summerlin, Charge d' Affaires of the United States to Mexico, President of the United Mexican States, and Alberto Pani, Secretary of State for Foreign Affairs.²¹

The General Claims Commission was to adjust the claims

20. "Mexico's Qualifying for Recognition," loc. cit., p. 911. The countries represented at the conference included British, French, Belgian, Swiss, German, and Dutch. Woodhouse, loc. cit., p. 1018.

21. The Statutes at Large of the United States of America (Washington, 1873--), Vol. XLIII, p. 1722.

between the United States and Mexico, from July 4, 1868, to the present time, with the exception of the claims growing out of the revolutionary disturbances. The plenipotentiaries were: President of the United States, Charles Evans Hughes, Charles Beecher Warren, John Barton Payne, President of Mexico, and Manuel G. Tellez, Mexican Charge d' Affaires.²²

The negotiations of both of the commissions were completed about the same time. However, the work of the General Claims Commission attracted the greater amount of attention.

Charles Beecher Warren and John Barton Payne were the American representatives sent to Mexico to negotiate with her concerning the general claims of the countries, but with the idea of ultimate recognition. The Mexican members of the Commission were Ramon Rosq and Fernand Gonzales Roa.²³ The American representatives were given certain instructions by the State Department. They were to insist that all mineral deposits be included in the same category, so that a farmer who found oil on his land might have the same rights as in the United States. In addition they were to require

22. "Mexican General Claims Convention," Congressional Record, 68 Cong., 1 Sess., p. 1522.

23. Hippy, loc. cit., pp. 333-334.

a more equitable land policy.²⁴

The General Claims Convention, as finally presented to the Senate for ratification, provided a detailed plan by which the claims of the countries might be adjusted. Furthermore, at the formal conference, August 2, 1923, the Mexican Commissioners agreed to the following terms: "It is the duty of the federal executive power, under the constitution, to respect and enforce the decisions of the judicial power. In accordance with such a duty, the Executive has respected and enforced, and will continue to do so, the principles of the decisions of the Supreme Court of Justice in the 'Texas Oil Company' case and the four other similar *empero* cases, declaring that paragraph IV of Article 27 of the Constitution of 1917 is not retroactive in respect to all persons who have performed, prior to the promulgation of said Constitution, some positive act which would manifest the intention of the owner of the surface or of persons entitled to exercise his rights to the oil under the surface, to make use of or obtain the oil from under the surface; such as drilling, leasing...or manifesting such an intention....

"The above statement has constituted and will constitute in the future the policy of the Mexican Government....

24. Shultz, "Mexico's Successful Fight for Recognition," loc. cit., p. 397.

and the Mexican Government will grant to the owners, assignees, or other persons entitled to the rights to the oil, drilling permits on such lands, subject only to police regulations, sanitary regulations, and measures for public order and the right of the Mexican Government to levy general taxes."²⁵

The representatives of the United States and Mexico signed a general claims convention on September 8, 1923, and, on September 10, 1923, a special claims convention was signed.²⁶ Since these records contained interpretations of the Mexican government on the question of subsoil, petroleum, and agrarian legislation, acceptable to the American delegates, it was understood that it would bring about a resumption of diplomatic relations.²⁷

Recognition was granted to Mexico by the United States, September 3, 1923, and, according to President Coolidge's address to the United Press Association, "it was solely because of our understanding secured in the formal way that our property rights would be respected, that recognition of

25. Wallace Thompson, "Wanted--a Mexican Policy," Atlantic Monthly, Vol. CXXXIX (March, 1927), p. 383.

26. House Documents, 68 Cong., 1 Sess., Vol. XIII, No. 270, p. 2.

27. New York Times, August 16, 1923, p. 1, c. 2.

28. Calvin Coolidge, Address to the United Press Associations (New York, 1927, pamphlet in K. S. A. C. Library), p. 14.

the Government of President Obregon was granted...."²⁹

The negotiations concerning the agrarian and petroleum laws, by the General Claims Commission, and the recognition of the Obregon government by the United States were considered as two of the outstanding accomplishments of the Obregon administration.²⁹

Recognition did not wait for the signing or the ratification of the General Claims Convention. Ratification was advised by the Senate, January 3, 1924; signed by the President, February 4, 1924; ratified by Mexico, February 16, 1924; the exchange of ratifications took place at Washington, March 1, 1924; and it was proclaimed, March 3, 1924.³⁰

It had been hoped that the next election might come and go without any signs of force. But such hopes were in vain. A revolution took place in 1924, under the leadership of Huerta. It would probably have succeeded in displacing Obregon had not our government furnished the latter with arms and ammunition. Through such help of the United States, he maintained his position.³¹

The revolution was merely a result of personal politics. The revolutionists took possession of portions of

29. "The Presidential Dilemma in Mexico," Foreign Affairs, Vol. III (September, 1924), p. 78.

30. Statutes at Large, Vol. XLIII, p. 1730.

31. Coolidge, op. cit., p. 14.

Mexican territory and either demanded tribute from American commerce or attempted to obstruct or destroy it.

The Mexican government asked the United States to sell them a limited amount of arms and ammunition. After due consideration it was decided to meet the request of Mexico. Had the United States refused, it would have thrown our moral influence on the side of the revolutionists. By granting the request there was no question of intervention or violation of the sovereignty of Mexico. In the first place the United States was acting at the instance of Mexico, and, secondly, the United States was exercising her right to sell arms to the existing government.³²

By this time it had become a custom for American Presidents to support one faction or the other in Mexico by manipulating the embargo on arms. Consequently, there was ample justification for the opinion, in the United States, that the administration was, by this act, intending to hamper the Huerta movement, and thereby help Obregon to suppress the revolt.

The United States, no doubt, was especially desirous that the revolutionary conditions be settled immediately. One reason for this desire, apparently, was the fact that

32. "Shipment of Arms to Mexico," Senate Documents, 68 Cong., 1 Sess., Vol. XXII, No. 104, p. 2.

the United States had just recognized Mexico, and wished to reap the expected benefits of peaceful relations.

V Later Development

When Calles took office, on December 1, 1924, conditions in Mexico were at a low ebb, because the rebellion of Huerta had swept away many of the reconstructive measures of Obregon. Calles insisted that the period of agitation was over, and that an era of reconstruction had begun. Consequently work and cooperation were essentials.

According to one writer, the Mexican financial structure was a "wilderness of weeds." Calles, however, reorganized it and created a treasury surplus. With this surplus the National Bank of Mexico was established, September 1, 1925. In October the Mexican government arranged with the International Bankers' Committee for the resumption of payments on the foreign debt, to begin January 1, 1926. Finally, the railroads, which were taken over during the revolution, were returned to their American and British owners.

The way in which Calles handled the difficult situation in Mexico, during the first year of his presidency, was meritorious. He dealt especially with those problems which needed immediate solution.¹

1. Ernst Gruening, "President Calles' First Year," in Congressional Record, 69 Cong., 1 Sess., pp. 3981-3983.

During the early part of the administration it was difficult to predict what the outcome would be. Indications were that Obregon's attitude toward foreign capital had been more lenient and less nationalistic. Contrary to this approach, Calles's tendency was toward the intensification of nationalism, racial and cultural fusion, and a constructive solution of the agrarian problem. If this policy was to be worked out there would have to be a shuffling of social forces, a new balance of power, and new conflicts.²

Jose Colomo asserted that for years Mexico was working with the purpose in mind of passing a petroleum law. All such efforts were thwarted by mischievous forces and designs contrary to the social advancement of Mexico, thus delaying the law until the issuance of the present petroleum law of December 31, 1925.³

Up to that time there was no definite legal foundation for the development of the industry, and no harmony in the principles ruling its exploitation.

2. Carleton Beals, "Whither Mexico," New Republic, Vol. LIII (December 21, 1927), p. 135.

3. Jose Colomo, General Facts Concerning Mexican Petroleum Laws, lecture delivered in the City of Mexico on August 5, 1927, before the Mexican and American School Teachers, attending Summer School there. Taken from a typewritten copy supplied me by the Department of Industry, Commerce, and Labor.

It was supposed that the absence of legal regulations fixing the rights of those who had invested heavily in the search for petroleum, meant absolute insecurity for their money invested, even if the ordinary, uncertain conditions of the industry were overlooked.

This law had been awaited nearly ten years: by the courts, so that the conflicts might be resolved, in conformity with principles that had received legislative sanction; by the offices of administration, who needed a national mode of procedure, in order to regulate in a scientific and orderly manner the exploitation of petroleum. The imported regulations, used for the want of better, had proved nearly primitive with regard to the conditions of Mexico. The capitalists and foreign trusts were demanding a law, whether good or bad. However, they awaited the passage of such an important law with minglings.

Mexico was in a position to enact the petroleum law just at the time when oil deposits of the country needed judicious and reasonable exploitation. The petroleum law has clarified the situation for all persons concerned, and established a basis for future investments.⁴

4. Jose Coloso, "The Mexican Petroleum Law its Basis and its Aims," Estados Unidos Mexicanos Bulletin (Mexico, n. d.), pp. 3-4, furnished me by the Mexican Secretary of Industry, Commerce, and Labor.

The most bitter controversy of all raged over the Mexican petroleum law.⁵ The corner stones of the law are four-fold: (1) The direct domain, a part of which is made up of deposits of petroleum, is vested in the nation; (2) Mexicans, and civil and commercial societies which have been constituted in conformity with the Mexican law, may obtain concessions; (3) Foreigners have the same privileges if they have previously fulfilled the obligations which were provided in Article XXVII of the Constitution; (4) The rights granted cannot remain in force any longer than required to carry the regular labors into execution.⁶

Although the law provided for direct domain, it confirmed all oil rights on land where works of exploitation had been begun prior to May 1, 1917. This principle also applied to contracts made before May 1, 1917, by the surface owner, or his successor in title, for the express purpose of developing petroleum, but only for a period of fifty years.⁷

The law further provided that the confirmation of the rights should be applied for within the period of a year

5. Foreign Policy Association, Information Service, Vol. III, No. 23 (January 20, 1928), p. 349.

6. Coloso, "The Mexican Petroleum Law," loc. cit., p. 5.

7. Rippy, The United States and Mexico, p. 335.

from the date of promulgation of the law. If no application was made the rights should be considered renounced.⁸

Regulations for the execution of the petroleum law were provided on March 6, 1926. Articles 151 and 152 of the regulations are very clear in reference to applied rights. Article 151 provides: "The rights derived from works done prior to May 1, 1917, referred to in Section I of Article 14 of the law should be proved in the manner established by the laws on the subject or on the strength of documents authentic in the opinion of the Ministry of Industry, Commerce, and Labor which technically prove that the said work has been done."

Article 152 definitely enumerates the things to be considered as petroleum exploitation work:

"I. The drilling of petroleum wells regardless of the results achieved.

"II. Work of a geological character made for purposes of petroleum exploitation in the judgment of the Ministry of Industry, Commerce and Labor, and for the account of the owner of the land or his assigns." ⁹

8. Foreign Policy Association, op. cit., p. 349.

9. Regulations of the Petroleum Law, p. 29, translation supplied me by the Department of Industry, Commerce, and Labor.

Article 153 states that it will accept as means of proof: "(a) Contracts of lease, exploitation or cession of rights to the sub-soil, or of promise of any of these operations made in a public instrument.

"(b) Contracts of sale in which it appears that the operation was made with a view to petroleum exploitation or contracts in which the price agreed on makes it clear that the operation was for a like purpose." 10

After a thorough explanation of the petroleum law and the regulations, Colomo said, "could one go further within the purview of concessions, could one be more generous? And remember that it is dealing with petroleum, which is one element of public wealth and even of sovereignty of the Nation." The reason for this liberality, he said, was to give real proof of her good will toward investors. This seemed to have been influential in an increase in investments, because facts prove that money invested since the Constitution of 1917 was four times as much as money invested before in the same period of time. To Colomo this is proof enough of the falsity of that "imaginary confiscatory policy." 11

Frank B. Kellogg asserted that the operation of the po-

10. Ibid.

11. Colomo, "The Mexican Petroleum Law," loc. cit., pp. 12-15.

roleum law would be a forced exchange of a greater for a lesser estate. That the law is retroactive and confiscatory because it converts exclusive ownership into a mere authorization to exercise rights for a limited period of time. That the United States could not accept the Mexican conception of vested rights. It deprives the term "vested" of any real meaning, because a vested interest is inviolable and cannot be impaired or taken away by the state except for a public purpose, and with due compensation.¹²

The attitude of the State Department, in denouncing the petroleum law as retroactive and confiscatory, opened the door to another period of misunderstanding.

As a result of a protest of Ambassador James R. Sheffield against the law considered retroactive by the American government, Aaron Saenz, Mexican Minister of Foreign Affairs, hit back at Washington. He declared that Mexico had a right to maintain her rights as a sovereign nation and pass any laws she desired. When the laws had been enforced and applied and concrete cases had arisen, appeals could be made to the courts, which would always be open to remedy acts in-

12. Frank B. Kellogg, "Note of the Secretary of State to the Mexican Minister for Foreign Affairs, dated July 31, 1926," American Property Rights in Mexico (Washington, 1926), p. 4.

fringing upon acquired rights.¹³

The period during which titles might be confirmed expired December 31, 1926. Many companies had complied, but the most important producers, twenty-two companies in all, refused to apply for confirmation of their titles. Twenty of these were American companies, one was Dutch, and one was English. The non-conforming companies occupied only a small per cent. of the total acreage, but they produced a proportionately large share of the total amount of petroleum.

The non-conforming companies based their refusal upon the fact that they had secured their possessions during the years between 1884 and 1917, when ownership carried with it the ownership of subsoil deposits. For a time it looked as though there would be a serious international dispute.¹⁴

The American companies consisted largely of Sinclair and Doheny interests. They were the ones crying confiscation and for intervention on the part of the United States, in order to gain protection from a just compliance with Mexican laws.¹⁵

Apparently these companies have used their influence

13. New York Times, January 11, 1926, p. 1, c. 8.

14. Foreign Policy Association, op. cit., p. 350.

15. Congressional Record, 60 Cong., 2 Sess., p. 2326.

toward intervention. William R. Hearst, it seems, has willingly used his influence in their favor, through the columns of his numerous newspapers. Mr. George Huddleston, Representative from Alabama, denounced such propaganda, and suggested that Hearst and the twenty-two owners should be taken down to the border, given arms and told to fight for their own property. He stated that, in his estimation, there would not be much fighting but, rather, there would be intense competition as to who should lead the "advance to the rear." 16

On January 26, 1927, it was reported that the Mexican government had canceled 149 drilling permits, and suspended drilling operations on twenty-five wells, because of failure of operating companies to comply with the oil law. This action gave the companies a definite grievance to carry before the Mexican courts, and numerous injunctions were sought to prevent the enforcement of the new petroleum laws and regulations. A number of temporary injunctions were granted. 17

On June 8, 1926, the Department of Industry issued an order granting the persons interested in exploitation six

16. Ibid., p. 3295.

17. Foreign Policy Association, op. cit., p. 351.

months in which to prove their rights. Even this extension of time did not satisfy the investors. 18

Due to the intervention of the United States in Nicaragua, in the latter part of 1926, public attention was temporarily shifted from the Mexican difficulties. President Calles, however, suggested on January 8, 1927, that he would be willing to submit the oil question to arbitration, if necessary. 19 Although he realized that, in the past, the tendency had been to decide in favor of the stronger disputants, 20 He also realized that such a procedure involved a peril, because, he said, "If a country exercising its sovereignty passes laws, laws which the nation believes are necessary for the well-being of the people, it is very dangerous for it to submit these laws to the wishes of other people."

At the same time arbitration was considered in the United States. It culminated, on January 25, 1927, in the unanimous adoption in the Senate of the Robinson resolution, which favored the submission to arbitration of the controversies with Mexico concerning the question of confiscation

18. Taylor, "The Mexican Oil Controversy," Christian Science Monitor, December 17, 1926, editorial.

19. Foreign Policy Association, op. cit., p. 350.

20. "The Way Out of the Mexican Riddle," The New Republic, Vol. XLIX (January 19, 1927), p. 236.

of property of American citizens and corporations in Mexico. 21

It seems that Mexico was going half way, if not more, in her willingness to arbitrate a matter which involved her sovereignty. Consequently, in the eyes of many people, the United States should have been willing to arbitrate a matter that affected only the claims of certain citizens of this country.

The American people, on the whole, looked with sympathy on the attempts made to right the ancient wrongs in Mexico. The public agreed with the administration that we should insist upon respect for legitimate claims of American citizens, but that force was unnecessary. Since Mexico proposed arbitration, when it involved a provision of her constitution, the United States, as a professed believer in arbitration, should have welcomed a solution of the problem by this method. 22

Senator William E. Borah, at the time of the agitation for arbitration, received a letter from the members of the faculty of the University of Texas. They were of the opinion that Mexico was doing her best, consequently the United

21. Foreign Policy Association, op. cit., p. 351.

22. "Mexico and the American Public," The Outlook, Vol. CXLV (January 26, 1927), p. 107.

States should help them by arbitrating the question. 23

Regardless of the expressions of sympathy with arbitration, President Coolidge saw great difficulties in formulating a question which both governments would agree to arbitrate. He said that it was doubtful whether the principle that property was not to be confiscated, and the right of Americans to protect it, should be questioned. And it was also probable that Mexico felt that her right to make a constitution and laws, should not be questioned. Consequently he urged negotiation.

In the meantime relations between the United States and Mexico had not been improved by a testimony of Secretary Frank B. Kellogg before the Senate Committee on Foreign Relations. His statement dealt "with the so-called 'spectre of a Mexican fostered Bolshevik hegemony' which, according to a newspaper report emanating from the States Department in November, 1926, was 'intervening between the United States and the Panama Canal.'" 24

Senator Borah, in an address in March, 1927, attempted to defend Mexico. He declared that it seemed to be the natural conclusion of American people, when a nation had inter-

23. Congressional Record, 69 Cong., 2 Sess., p. 1683.

24. Foreign Policy Association, op. cit., p. 351.

nal difficulties and revolutions, immediately to conclude that Bolshevism was clutching at the throat of the country. This had been the conclusion of the American people as to Mexico. He asserted that Communism and Russian influence had had nothing to do with the affairs in Mexico. "The only Communists who ever made any trouble in Mexico went there from the United States and were sent back by the Mexican government."

Borah further stated that Mexico had a perfect right to pass its land laws, however she did not have the right to destroy vested rights. That Mexico had done the best it could to break up the large estates, he felt confident.²⁵

Another problem, which affected relations between the two countries in a smaller degree, involved the drive of the Mexican government against religious orders, especially that of the Roman Catholic Church. Until the present government of Calles came into power, the religious orders had pursued a fairly undisturbed course.

One of the anti-clerical provisions of the constitution is that "to be a minister in Mexico of any religious cult it is necessary to be a Mexican by birth." The fact that it was

25. William E. Borah, "Neighbors and Friends," Nation, Vol. CXXIV (April 13, 1927), pp. 393-394.

being enforced might not have a direct bearing upon American-Mexican relations. It was suggested, however, that this action might be for the purpose of obviating any contention of the government of the United States that one portion of the Constitution was being enforced while other provisions were dormant.²⁶

Coolidge took a definite stand of "hands off" of Mexico in its religious difficulties. He asserted that American rights must be rigidly upheld; and that only in the case of violence against American rights and American property would he take action.²⁷

President Calles stated that the United States could not appreciate the problem which the foreign priests created in Mexico. They have meant calamity to Mexico, especially those of Spanish and Italian nationality. They were largely outcasts of Rome, and Europe had sent them to Mexico. Thousands came to Mexico and made the people fanatics, and allowed them to sink into ignorance, while the priests took everything they could put their hands on. Furthermore, he declared, they came there to mix in internal politics, to absorb economic strength, to control activities, to disrupt the organi-

26. Richard V. Oulahan, "Mexico Again Darkens Diplomatic Skies," New York Times, February 28, 1926, p. 3, c. 1-2.
27. New York Times, August 7, 1926, p. 1, c. 2.

zation of the country and counteract all its benefits and advantages. 28

The State Department of the United States was informed, in the early part of 1926, that Mesdamos Semple, Evans, and Connelly, of an Academy near Mexico City, had been expelled. The order was later revoked, but the women concluded that the best policy was to leave the country. Another case reported was that of Dr. J. A. Phillips, principal of a school at Piedras Negras. This order was revoked and Phillips was allowed to go back, provided that he did not teach. 29

It would naturally be assumed that the ground for their expulsion was that they were teaching in violation of the Constitution and laws of Mexico.

Mother Semple asserted that she was not allowed any longer to utter the word of God before the children under her care, nor use any symbol of Deity in the building near Mexico City where the Convent was located. When she advised the Mexican officials that she could not do this, she was expelled. She urged the Committee on Foreign Affairs in the House to take action on a resolution which had been introduced, requesting the President to sever diplomatic relations

28. Ibid., August 8, 1926, Sec. I, p. 1, c. 8.

29. Congressional Record, 69 Cong., 1 Sess., p. 5356.

with Mexico until its conduct toward education and religious institutions should justify resumption of those relations.³⁰ The president, however, continued to adhere to his policy of "hands off" Mexican religious questions.

Although the religious difficulties in Mexico divided the American interest in Mexican affairs somewhat, the oil situation still provoked the greater amount of concern.

From time to time, during the years following the general and special claims agreements of 1923, there had been alleged violations of those conventions. Consequently, at various intervals, there appeared a tension in the relations between Mexico and the United States.

The opinion as expressed by government officials of Mexico, was that the strained relations were caused by "Wall Street" and the oil interests. The officials said that they could not understand the attitude of the United States, and declared that all they desired to do was to halt the elimination of Mexicans from land, through investments of foreigners who were gaining control of the country's resources.³¹

At this time Calles had adopted the slogan, "Mexico for the Mexicans."³² The attitude of many Mexicans was aptly

30. New York Times, March 31, 1926, p. 7, c. 1-2.

31. Ibid., January 22, 1926, p. 2, c. 7.

32. Ibid., February 1, 1926, p. 2, c. 4.

expressed in a statement of a Mexican ex-official to an American business man, "Of course, we have to handicap you by legislation and administration in every way we can. You are much abler and more experienced in business than we are; if we don't even up some other way, you will soon own the whole country." 33

This statement may seem exaggerated. But, apparently, the Mexicans were sincere in their feeling that calamity lay ahead if conditions continued the same. They were fearful of the rate at which foreigners were gaining possession of land, and of the fact that foreigners, not Mexicans, were getting the millions derived from the oil.

The saying is, that the test of a gentleman is the way he behaves toward those weaker or inferior in station. It may also be said that the test of national honor ought to be the attitude it displays toward smaller countries. It has been suggested that if this test were applied to the foreign policy of the United States in recent years it would not come out with flying colors.

Secretary Kellogg has been the target of more adverse criticism, as a result of his dealings with Mexico, than any other one individual. This censure resulted from his public

33. John Dewey, "Imperialism is Easy," New Republic, Vol. L (March 23, 1927), p. 133.

condemnation of objectionable acts, without stating what they were. In this statement he questioned the good faith of the Mexican government, and referred to rumors of another impending revolution. There was the suggestion of a threat in his advice to Calles that the latter would need the aid of the United States to remain in power; that this aid might be withheld unless Mexican policies were satisfactory to Washington.³⁴

President Calles resented the warning by Secretary Kellogg: he felt that it was an insult and a threat to the sovereignty of Mexico, and he insisted that Mexico would meet all of its obligations.³⁵

At the time of Secretary Kellogg's statement, it was the general sentiment in both countries that relations between Mexico and the United States were better than they had been at any time during the revolutionary era.³⁶

Conditions continued about the same until Kellogg again considered it necessary to warn Mexico concerning the critical situation. He reasserted that the United States expected the government of Mexico, "in accordance with the true intent and purpose of the negotiations of 1923, culminating in

34. "Blundering in Mexico," New Republic, Vol. XLIII (July 1, 1925), p. 139.

35. New York Times, June 13, 1925, p. 1, c. 1.

36. "Blundering in Mexico," loc. cit., p. 139.

the recognition of the Government of Mexico by this Government, to respect in their entirety the acquired property rights of American citizens, which have been the subject of our discussion, and expects the Mexican Government not to take any action under the laws in question and the regulation issued in pursuance thereto, which would operate, either directly or indirectly, to deprive American citizens of the full ownership, use and enjoyment of their said properties and property rights." 37

Aaron Saenz, Mexican Minister of Foreign Affairs, in answer to Kellogg's note, informed him that Calles did not consider the claims convention results in a formal agreement. Saenz called Kellogg's "attention to the very human fact that men and money are generally opposed to any innovation even though it does not mean any invasion of their rights." 38

In response to this note, Secretary Kellogg emphasized the fact that our government still regarded the proceedings of 1923 as a negotiation of greatest importance, engaged in by two sovereign states. He asserted that the paramount issue was recognition, which would not have been extended

37. Frank B. Kellogg, "Note of the Secretary of State to the Mexican Minister for Foreign Affairs, dated October 30, 1926," American Property Rights in Mexico, p.27.

38. Senate Documents, 69 Cong., 1 Sess., No. 96, p. 5.

without the assurance, received in the course of negotiations that the American government relies upon fulfillment of the assurance given at that time.³⁹

In a later note of Saenz's he attempted to strengthen his contentions by the assertion that the declarations of 1923 were not accepted by the American commissioners in a form which constituted an agreement, for there were reservations. Consequently, the Mexican government reiterated its opinion that the conference did not result in a formal agreement outside of the claims conventions. Furthermore, he maintained, it never could be said that recognition of the Obregon government was accorded on the condition that the declaration take the force of a treaty.

The government of President Calles did not repudiate the recommendations and purposes of the government of General Obregon, but Calles did not admit that these declarations had the force of a treaty. In answer to a complaint concerning the fifty-year concessions he explained that that period was more than enough to protect the working of any petroleum property. Then, too, a concession could be extended.⁴⁰

The agreement concerning the oil question was not in-

39. F. B. Kellogg, "Note of July 31, 1926," loc. cit., p.10.

40. Aaron Saenz, "Note in Reply [to Secretary Kellogg] of the Mexican Minister for Foreign Affairs, dated October 7, 1926," American Property Rights in Mexico, pp. 12-22.

cluded as a part of the treaty which settled the claims. The treaty was ratified by the Senate and is printed in the Statutes at Large, but the oil agreement is not included. The latter was, then, merely a sort of "gentlemen's agreement." Such documents are outside the scope of recognized diplomatic procedure in either the United States or Mexico, and, hence, the United States could have no legitimate basis for insisting that other nations should consider them as having the same binding force as treaties. Senor Justo Santa Ana, a Mexican congressman, cited what he considered to be an analogous case in the United States, as to the ownership of property. He had reference to the fact that foreigners cannot own property in the District of Columbia. This challenge, however, was refuted as being inapplicable. Foreigners may own personal property there, but are forbidden to own real estate, except what is procured by inheritance. This law has been effective since 1857, and is neither retroactive nor confiscatory. The use of the word "hereafter" was inserted to safeguard aliens in their real estate previously acquired. 41

According to a lawyer from one of the Latin American countries, there were three policies which the United States

41. New York Times, January 12, 1926, p. 1, c. 4.

could follow in her relation with Mexico. First, the United States could leave Mexico alone. Second, she could intervene in her affairs by turning loose revolutions upon her. Third, she could make a conquest of the territory. He expressed the opinion that the United States has not used the third alternative because the people will not allow it. Intervention has been used in Mexico at intervals for a hundred years, but the same old troubles exist. He suggested that the United States try the first plan, and leave Mexico alone.⁴²

There is little doubt but that this was, naturally, the universal opinion throughout all Latin America, and especially of the Mexicans. Even in the United States there were those who favored a policy of leaving Mexico alone. One American writer asserted that, "No President since Wilson... has consistently advocated open and genuinely friendly cooperation with Mexico. We have haggled and bargained, stood up for our rights, put embargoes on shipments of arms and taken them off again, done almost everything, in fact, except act as simple, friendly, human beings anxious to help a neighbor out of his difficulties." He also stated that,

42. Thompson, "Wanted--A Mexican Policy," Atlantic Monthly, Vol. CXXXIX, p. 381.

in the United States, the trouble makers and propagandists are never silent. Few people really talk peace with Mexico. Even the most pacific are satisfied to wait, and hope that everything will turn out all right in the end. All the time, up until the last few months, a hostile, electric atmosphere was being created.⁴³

It is interesting to note the attitudes on the Mexican question as expressed by a few congressmen. William S. Borah declared, "For myself I do not fear to say that I sympathize with Mexico in her task. She may fail in this great national effort, but I do not propose to commit the crime of wishing her to fail....God has made us neighbors--let justice make us friends. The first step toward justice is to stop making false and unfair statements about Mexico."⁴⁴

Mr. William H. King, senator from Utah, says it is the duty of our country to protect the rights of American citizens. But the owners of the oil properties are not the ones to complain, for they have made arrangements by which they have retained possession of their property, continued to operate it, and exercised control over it, which is lit-

43. "Leave Mexico Alone," The Independent, Vol. CXVIII (February 5, 1927), p. 80.

44. Charles W. Lockett, "Issues with Mexico and Nicaragua," Current History, Vol. XXVI (May, 1927), p. 278.

orally ownership. 45

Senator George W. Norris of Nebraska agreed with many others that the greatest difficulty lies in secret diplomacy. Propaganda was instituted in both countries to inculcate a feeling of distrust and hatred between the citizens of the two countries. He felt that, if the average citizen had access to the truth, the misunderstanding would be at least partially erased. 46

In the eyes of Latin America all that the United States has done with Mexico has been a manifestation of a definite policy. To prove this, a journalist traced our past history: The Mexican War; the thirty-four years' support of Porfirio Diaz, while the Americans grew in power and wealth in Mexico; the massing of troops on the border, which even Diaz took to mean that the United States had deserted him; the death of Madero, blamed on American interference; the fall of Huerta, brought about by Wilson's pressure; the recognition of the Carranza government; encouragement of Obregon to gain control of the government; and the great diplomatic pressure on Calles, when he was earnestly trying to enforce laws which he felt would better conditions. 47

45. Congressional Record, 69 Cong., 1 Sess., p. 5265.

46. Ibid., p. 4754.

47. Thompson, loc. cit., p. 381.

While the Mexican government condemned the attitude of the Americans, the Americans feel that their rights have been violated. The viewpoint of the oil investors is stated by Guy Stevens who declares, "A reasonable respect for rights acquired by American citizens, in due compliance with the laws of Mexico in force at the time of the acquisition of those rights, would solve the problem we are discussing today." 48

In the midst of increasing difficulties in Mexico James R. Sheffield resigned his position as ambassador to Mexico. Much depended upon the appointment of a person in his stead. To appoint some one who could patch up the difference satisfactorily was greatly to be desired.

Since our differences with Mexico were based upon their construction of property rights, it would be wise to send a lawyer and financier capable of dealing with intricate problems. Such an action would be common sense. 49

Keeping all of these things in mind, President Coolidge appointed Dwight W. Morrow, Ambassador to Mexico. Mr. Morrow, was a natural appointee. He was the President's friend: they had been college classmates. He was Cool-

48. Stevens, "Some Outstanding Problems of American Foreign Relations," United States and Mexico Their Present Relations, p. 9.

49. "Our New Ambassador," World's Work, Vol. LV (November, 1927), p. 12.

idge's constant advisor; a man of experience in law and national finance; and at all times eager for public service.⁵⁰

After Mr. Morrow graduated from Amherst he went to Columbia Law School, and practiced his profession for ten years before entering the banking business. Much credit is due him for his work in connection with military shipping and supplies during the war. Consequently he was familiar with the practice of international law and relations, as well as the theory.⁵¹ Furthermore, he is well known in the historical world, a fact evidenced by his present position as a member of the Executive Council of the American Historical Association.

Morrow is a well rounded man, very different from the usual banker or business man. He brought to his office a vast amount of experience as a negotiator, a likable personality, and a quick and sympathetic mind. "He has the courage, confidence born of success, and the advantage that always goes with size, for he is the biggest man both in point of ability and in knowledge of affairs that has in

50. "Morrow to Mexico," Literary Digest, Vol. XCV (October, 1927), p. 11.

51. Lawrence F. Abbott, "On the Importance of Being an Ambassador," Outlook, Vol. CXLVII (October 5, 1927), p. 143.

many years undertaken a mission for this government." 52

There was bound to be criticism of this appointment, because he had been the leading partner in the Morgan firm, which was directly interested in Mexican finances.⁵³

It was feared that his appointment would not be confirmed by the senate. The democrats and insurgent republicans were the most likely to place an obstacle in the way. They were the ones who had been fighting the oil investments in Mexico.

From the time of the appointment until congress met, two months had passed. When Borah heard of the appointment he said that he was willing to wait and see what the new ambassador would do. "If Mr. Morrow is going to Mexico City to carry out a policy looking to the adjustment of our controversy with Mexico upon peaceful and just lines and with due regard for the rights of all parties, I think he is in a position to render a public service of incalculable value."⁵⁴

Different opinions were expressed by papers in Mexico. One seemed hopeful that Morrow would bring about friendship between the two former enemies. Two other papers carried a

52. C.W. Gilbert, "The Biggest Man," Colliers, Vol. LXXX (December 17, 1927), p. 39.

53. "Morrow to Mexico," loc. cit., p. 11.

54. Ibid.

different tone. There was evidence of a feeling of despair. They stated that he came as a representative of a banking concern and not of a friendly country. 55

Horrow's appointment, apparently has been an overwhelming success. He has treated Mexico to a new kind of diplomacy, which has brought about a more cordial understanding between the two countries than has existed since the overthrow of Porfirio Diaz in 1911. "The mainsprings of this new diplomacy are respect for Mexican sovereignty and personal contacts designed to show an interest in and a friendship for the Mexican people and the Government." 56

Late in October, 1927, President Calles cancelled the boycott decree, which had been issued in May, forbidding the government departments to make purchase in the United States.

In November, 1927, the Mexican Supreme Court granted a decision reaffirming the granting of an injunction in the case of the Mexican Petroleum Company. This decision is regarded in the United States as an indication that the Mexican government was yielding to the contentions of the United States in reference to the retroactivity and alleged

55. "Mexican Views on Our New Ambassador," Literary Digest, Vol. XCV (October 15, 1927), p. 22.

56. Charles W. Hackett, "Success of Lindbergh's Good-Will Mission to Mexico," Current History, Vol. XXVII (February, 1928) p. 727.

confiscatory features of the petroleum law of December 31, 1925.

The decision seems to establish only that no drilling permits shall be revoked because of failure of any company to apply for confirmation of its title to rights acquired before May 1, 1917, for a term longer than fifty years. The reason for this provision is that a company with rights previously acquired for a longer term than fifty years could not apply for a confirmation of its title under the petroleum law, without limiting its pre-existing rights as to time.

The court declared invalid the order of the Department of Industry, Commerce, and Labor revoking the drilling permits of the Mexican Petroleum Company.

In a strict sense this decision did not declare the provisions of the petroleum law unconstitutional. It did, however, declare the order issued by the Department of Industry, Commerce, and Labor as violating the Constitution.⁵⁷

In December, 1927, President Calles recommended a measure in the Chamber of Deputies for the purpose of modifying Articles 14 and 15 of the Mexican Petroleum Law of 1925 to accord with the decision of the Mexican Supreme Court in the Mexican Petroleum Company Case. The proposed modifica-

57. Foreign Policy Association, op. cit., pp. 352-353.

tion passed both houses of the Mexican Parliament and went into effect January 11, 1928. There was added a penalty clause similar to that in Article 15 of the 1925 oil law.⁵⁸

The law, as it now stands, abolishes the fifty-year concession provision on pre-1917 contracts. There is, however, a stricter interpretation, which provides that pre-1917 oil lands are now those which were actually worked prior to 1917 which ruled out vast tracts previously considered as possessing pre-1917 rights in the subsoil. The new amendments still insist that these pre-1917 rights be confirmed within one year by application for concession. The oil companies do not want to register their properties, for they are dubious as to how lenient the Mexican officials will prove in considering them.⁵⁹

In mid-November, 1927, just when every one was feeling confident that Mexican difficulties were definitely settled, the Hearst newspapers began the publication of a series of alleged documents. Many of the documents were facsimile, and were claimed to have been stolen from the archives of the Mexican government. These documents were offered as a justification of the recent Nicaraguan policy

58. Ibid., p. 353.

59. Carlton Beals, "Dwight Morrow Agrees with Mexico," Nation, Vol. CXXV (January 26, 1928), p. 93.

of the United States and to prove that the recent Mexican foreign policy had been directed toward destroying the influence of the United States, and at the same time, improving that of Mexico, in Central America. Furthermore, it was an attempted proof that Mexico was supporting and promoting everywhere radical and Communist activities. ⁶⁰

One of the alleged documents was an order signed by President Calles, dated June 2, 1926, directing that \$100,000 be delivered to the Nicaraguan Liberal Army. Other documents provided for the payment of sums of money to officials of various Central American countries. Another was an order signed by Calles for the payment of the expenses for communist propaganda. ⁶¹

After December 6, 1927, various allegedly official documents were printed. According to one, four United States senators had received \$1,215,000 from the Mexican government. The Senators were Borah, Norris, Robert M. La Follette and Thomas Heflin. All of them denied it, and stated that they had neither received any money nor even been approached by anyone concerning the matter.

The Mexican acting Minister of Foreign Relations, Es-

60. Charles W. Hackett, "The Hearst Newspaper Revelations," *Current History*, Vol. XXVII (January, 1928), p. 579.

61. Id., pp. 579-580

trade, denied the authenticity of the documents. He stated that the documents were offered to the Mexican Consul at Los Angeles, on August 24, 1927, for \$25,000. The Consul was instructed to reject the offer. Some other facts which raised the question of genuineness are as follows: Several typewritten telegrams were among the documents published in facsimile, minus a single signature. In publishing documents there is evidence that a date on one document was changed in between editions of the newspaper. Apparently the date in the document conflicted with another date in the same document.

The detailed accounts of presumably secret matter betrayed the alleged secrets. The treaty was merely printed with no sign of a signature or stamp. Documents of such character would not be admitted as unchallenged evidence in any case, civil or criminal, in any competent court in this country, and least of all before the permanent court of history. The signatures would have to be proved to be not forgeries first of all.⁶²

Senate investigators proved that Mr. Hearst's confidence in the authenticity rested solely upon the unsupported statements of Miguel Avila. It was also shown that

62. Ibid., pp. 590-591.

Hearst made no effort to find out whether they were genuine. Seemingly it is quite doubtful whether Hearst believed them himself.

Officials of the cable and telegraph companies operating between the United States and Mexico state that they have no record of any money having been transferred to Consul General Elias by his government, as the documents asserted was the case.

Robert H. McMurray, former newspaper man in Mexico City testified "that Miguel Avila was a well known professional peddler in Mexico City of spurious documents."

Hearst, at this point, evidently lost his nerve. His counsel reported to the investigating committee that the handwriting experts employed by Hearst had claimed that the documents were forgeries and stated further that there were many inconsistencies in the mechanical preparation of the documents that really gave them away as not being authoritative.

No evidence was found that any United States Senator had received a cent of money from the Mexican government or had even been approached in connection with the "alleged Mexican slush fund." 63

63. Charles W. Hackett, "Senate Investigations of Hearst Revelations," Current History, Vol. XXVII (February, 1928), p. 729.

Apparently this was but another effort of Hearst's to cause trouble between the United States and Mexico. Although people were astounded upon first reading the documents, and some believed them to be genuine, the feeling did not last long. Hearst lost in the long run. He had paid a large sum of money for the documents, and the printing of them resulted in scathing criticism.

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